

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF MARTIN COUNTY WATER)
DISTRICT 1 AND MARTIN COUNTY WATER) CASE NO. 96-358
DISTRICT 2 FOR APPROVAL OF MERGER)

O R D E R

On July 26, 1996, Martin County Water District 1 ("Martin 1") and Martin County Water District 2 ("Martin 2"), pursuant to KRS 74.363, filed with the Public Service Commission an application ("Joint Application") wherein they sought authorization to merge into a single water district to be known as Martin County Water District ("Merged District").

Both Martin 1 and Martin 2 are water districts pursuant to KRS Chapter 74, and both provide water service in Martin County, Kentucky. Both Martin 1 and Martin 2 are utilities within the definition of KRS 278.010(3) and are subject to the jurisdiction of the Commission. Martin 2 is a wholesale customer of Martin 1, which produces its own water.

Section (1) of KRS 74.361 sets forth the purposes of merger, stating in pertinent part,

The general assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that reduction of the number of operating water districts in the Commonwealth will be in the public interest, in that mergers of such districts will tend to eliminate wasteful duplication of costs and efforts, result in a sounder and more businesslike degree of management, and ultimately result in greater economies, less cost, and a higher degree of service to the general public; and that the public policy favors the merger of water districts wherever feasible.

The Board of Commissioners of Martin 2 determined by resolution that, due to the extreme financial circumstances which threaten the district's fiscal solvency and jeopardize its ability to continue to serve its customers safe drinking water at reasonable rates, it needed to take action to achieve certain economies of scale in the management and operations of the water district which could only be accomplished by merger.¹ The Boards of Commissioners of Martin 1 and Martin 2 then determined by joint resolution that it was in the best interest of the customers of both districts to merge into a single district. Both Boards were in agreement that the merger would benefit both districts by achieving economies of scale.

After the Boards of Commissioners adopted the joint resolution, they filed a joint petition with the Martin County Judge/Executive ("Judge/Executive") seeking his approval of the proposed merger. The Judge/Executive issued an Order which established a date and time for a public hearing on the matter, and caused public notice of such to be published in a timely manner on two occasions in each local newspaper. The public hearing, at which the merger issue was fully discussed, was held July 22, 1996. The Judge/Executive, having determined it to be "in the best interest of all water district customers as well as the citizens of Martin County generally," subsequently issued an Order merging the two districts effective upon the approval of the Commission.

¹ Martin 2 is currently in violation of terms and agreements contained within its loan agreement with Kentucky Infrastructure Authority ("KIA"). Martin 2's first required principal payment of December 1, 1995 is in default. It has been making only interest, and not principal, payments. KIA has the authority to seek to have a receiver appointed to operate Martin 2 and to collect repayment.

Joint Applicants submit that the Merged District shall initially be governed by a Board of Commissioners consisting of the present Commissioners of Martin 1 and Martin 2 until such time as the respective terms of the incumbent Commissioners expire or they otherwise vacate their position. No appointment will be made to fill a vacated position until such an appointment will result in maintaining a three member Board of Commissioners, at which time the Judge/Executive shall appoint successors as provided in KRS 74.363 and KRS 74.020. Rates within the areas currently served by Martin 1 and Martin 2 will not change when the merger takes place, but shall remain separate and distinct pursuant to KRS 74.363, which states, in pertinent part, that:

[O]bligations of any district secured by the right to levy an assessment as provided by KRS 74.130 through 74.230 or secured by the revenue of the systems operated by the district shall continue to be retired or a sinking fund for such purpose created from the tax assessments or revenue from the system operated by the district from funds collected over the same area by the new board of commissioners in accordance with the laws under which the bonds were issued until all bonded obligations of the old district have been retired.

In order to comply with this mandate, the Merged District intends to establish for rate-making and accounting purposes a Martin County Water District Section A and a Martin County Water District Section B.

The current employees of Martin 2 have been notified that their employment is to be terminated upon approval of the merger. According to the Order of the Judge/Executive, during the first six month period of operation as a merged system, the Merged District shall fill any available position by first offering employment to those former employees of Martin 2 who are qualified for the job in question. Also according to the Judge/Executive's Order, in response to a petition signed by 845 customers of Martin 2, the commissioners of the

Merged District are to give full consideration to establishing a convenient location in the Warfield area for customers to pay bills and apply for service.

IT IS THEREFORE ORDERED that:

1. Joint Applicants' request for authorization to merge Martin County Water District 1 and Martin County Water District 2 into a single merged district to be known as Martin County Water District is approved.

2. Within 10 days of the consummation of the merger, Joint Applicants shall notify the Commission that the merger has taken place or, in the alternative, shall notify the Commission if the proposed merger does not occur.

3. Within 30 days after the consummation of the merger, Joint Applicants shall file with the Commission documentation memorializing the assumption by the Merged District of all assets and liabilities specified in KRS 74.363.

4. Within 30 days of the consummation of the merger, Joint Applicants shall file with the Commission the journal entries for Martin 1, Martin 2, and the Merged District reflecting the merger.

5. Within 30 days of the consummation of the merger, Joint Applicants shall file a balance sheet for the Merged District.


6. The Merged District shall maintain separate accounting procedures as necessary to ensure that all bonded obligations of Martin 1 and Martin 2 will be retired as specified in KRS 74.363.

7. Within 10 days of the consummation of the merger, Joint Applicants shall file an Adoption Notice pursuant to 807 KAR 5:011, Section 11.

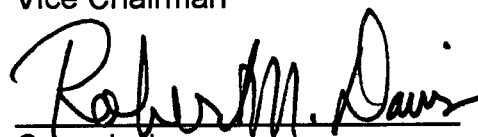
8. Within 10 days of its filing of the Adoption Notice, Joint Applicants shall file a tariff for the Merged District.

Done at Frankfort, Kentucky, this 22nd day of August, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director